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The Presence of the Federal System in Mexico

*José Gamas-Torruco*¹

I. BACKGROUND

Colonial Mexico was ruled by a strongly centralized political organization. All the powers were issued from the Crown in Spain. A Viceroy-Audiencia system concentrated and exercised the delegated authority. The King was lawmaker, enforcer, and judge. The Audiencia had limited powers to provide local legal measures, performed as a Supreme Tribunal and as surveyor of the executive. The Viceroy was the representative of the Crown, chief commander of the army, and head of the administration; he appointed the colonial officers and the governors of the provinces, by custom all natives of Spain, and intervened in provincial and municipal matters. No local legislative bodies were ever accepted. The laws made in Spain were frequently far from local requirements and demands. The flaws of such a system were pointed out at the end of colonial times when the revolution against the Napoleonic invasion in Spain and the captivity of the royal family led to the liberal Constitution of Cadix. This supreme law created provincial assemblies, each assembly having the power to perform limited administrative tasks within its provincial borders, as a response to a general claim of the American colonies. The Constitution, however, was only temporarily in force, as it was rejected with the return of absolutism with the return of Ferdinand the VII to the throne of Spain in 1814. The liberal military movement which restored the Constitution in 1820 practically coincided with Mexico's independence. Thus, self-government was unknown in Mexico during the three centuries of Spanish domination.

As soon as Mexican independence was achieved, the autocratic tendencies inherited by the dominant economic interests began to shape the government. The provinces rebelled against this attempt and demanded a constitutional convention and the founding of a federal state. The model was the United States Constitution.

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Thus, federalism was adopted in the Mexican Constitution of 1824. The former provinces were given the status of states.

From that date on, politics were overwhelmed by the cleavage of society: "conservatives," looking forward to preserving the privileges of the colonial times (mostly land and mine owners), the army (whose officers came from the former Spanish colonial army), and the Catholic Church (with strong participation in government, control of the education and social systems and with immense land property) on one side; "liberals," representing an emerging middle class trying to create a modern state, taking France and the United States as paragons, on the other. No consolidation of any kind could be achieved in those years of alternative and short victories from each side. The final triumph of the liberals culminated in the Constitution of 1857: the separation of church and state was achieved, and again, the Mexican federation was structured according to the United States' scheme with the adaptations that were deemed necessary.

Against the liberal victory, the Catholic Church and the conservatives declared a civil war which lasted for three years. At the liberal triumph, a French invasion ensued, establishing an empire with a European prince at its head. The resistance and later on, the offensive of the liberals — lead by President Benito Juárez — now organized in a popular army achieved a "second independence." The Constitution of 1857 was restored in 1867.

In the capital, Mexico City, the government was conducted by Presidents Juárez and Lerdo with strict democratic practices, respect for human rights, and obedience to the rule of law. The "juicio de amparo," as a writ of protection of human rights, was developed. But the states were now dominated by strong military "caudillos," the former leaders in the past wars — now popular heroes. Continued unrest forced the government to declare states of emergency one after another according to the procedures established in the Constitution.

One of the local warlords, Porfirio Díaz, organized an effective revolt and overthrew the legitimate government of Lerdo, inaugurating a dictatorship which lasted thirty years. Díaz preserved formally the Constitution but organized behind it a personal power structure.

The federal system was only nominal. The states were viewed as potentially dangerous strongholds of military forces menacing the central government. The decisions were progressively centralized. Díaz favored big landowners, and the extreme protection

granted to investors and against labor provoked popular unrest, especially in the countryside and in mining industrial areas.

A democratic popular and social revolution started in 1910 and achieved its normative expression in the "Political Constitution of the United Mexican States," in force since 1917. It is still the supreme law in Mexico. For the first time, social and economic rights were recognized in the text of a Constitution. The federal state was again structured.

II. "THE SYSTEM" (PRESIDENT – PARTY)

After the revolution, the powers were organized according to the Constitution and the rule of law prevailed uneasily among the struggle between revolutionary leaders. The first governments were based in military power. The menace was, again, coming from the warlords entrenched in the states. The only possible point of agreement was the necessity to accomplish the promises made during the revolution, now constitutional provisions and strong popular claims: agrarian reform, labor protective legislation, and economic nationalism.

In 1929, as a result of the murder of the elected president, the animosity between the military rulers was aggravated. Mexico was menaced by another civil war. The state "caudillos" were called by Plutarco Elías Calles, ex-president and the strongest political personality in Mexico, to reach a pact rejecting militarism and violent solutions. A party was created in order to institutionalize political life, organize elections, arbitrate the different interests, and decide the allocation of power quotas. The party was carefully organized at national, state, and local levels, and it carefully and progressively co-opted labor and country organizations. It adopted different denominations from 1929 forward: National Revolutionary Party, Party of the Mexican Revolution, and today's Revolutionary-Institutional Party ("PRI"). Under its different names, the Party dominated Mexican political life until the elections of July 2000.

Controlled at first by Calles, the Party recognized the incumbent President as its only and unquestionable leader from 1938 on. The absolute prohibition of reelection was established and accomplished. The Party's organization and inclusion of workers and peasants permitted the progressive elimination of the army from political life. The army became a strong and loyal arm of the political system. In Mexico, Latin American style militarism was unknown in the twentieth century.

The Party controlled the elections at national, state, and local levels. Vicious electoral practices were common but sometimes unnecessary because the political system was acquiring more and more legitimacy. The economic and social progress for more than three decades and the openness of politics to different levels of society were definite factors.

The evolution of federalism should be explained within the process of structure and consolidation of the new political system. First, it was necessary to diminish the power and influence of the local lords to, elementary, have peace. Then the new state vision required institutions and organizations at national level. (For example, the government created a financial system, started the construction of roads, and commenced an ambitious and successful irrigation program). The requirements of economic development practically forced centralized measures.

The continuous growth of central authority invalidated the federal structure. The President was not only the chief executive and the head of a growing administrative machine but also the leader of a dominant political party; he decided upon the candidates for state governors and representatives and senators to Congress. Since the 1970's, the system lost legitimacy due to economic crises (the insufficiency of the economic system to give satisfaction to an increased population) and social plurality (the spectacular growth of a middle class that has presented demands that could not no longer being satisfied). The opposition forces grew and attained political positions that were accepted and, in some cases, foreshadowed by a series of constitutional reforms.

III. CONSTITUTIONAL FRAMEWORK

It is not my purpose to repeat the normativity of the federal structure for the sake of it, but to distinguish within this structure the institutions that could give Mexican federalism a peculiar character.

The Constitution clearly distinguishes the federal and state powers. The classic principle prevails that the powers not explicitly delegated by the Constitution to the federal officers are reserved to the states. This principle has been respected and strictly enforced by Mexican courts.

Notwithstanding, the Constitution limits the autonomy of the states more than other federal constitutions, imposing uniformity and limits on the state political organization, even the rules of composition and structure of their legislative, executive, and even

judicial powers. State constitutional freedom is thus limited because the respective constitutional conventions and reform powers are bound by such rules.

The allocation of powers favors the central government. The central (federal) powers are enormous in comparison to those of the states. They were substantial in the original text of the Constitution and have been increased through a series of constitutional reforms. In fact, Article 73 of the Constitution, which provides the congressional powers, is the provision that has received the most amendments, always to increase the scope of the central legislature.

The state constitutions are limited in regard to municipal governments. The Constitution grants them a good deal of autonomy due to the fact that in the past they have been limited, particularly in allocation of resources. Express powers and allocation of resources are thus given.

In the Mexican system we recognize four legal orders, forming four levels of government: central or federal, state, municipal, and the Federal District. Originally shaped in the model of the District of Columbia, the Federal Districts' status began to change in 1983 when a series of constitutional reforms made Mexico City a "near – state," with local elected authorities and local legislative and governmental power.

The nature of powers in the Mexican system is as follows.

Express powers are those explicitly granted to the national, central, or federal government by the Constitution. Congress has the implied power to make all laws which shall be necessary for carrying into execution the express powers and any other vested in the national government. This clause is almost identical to that of the United States Constitution. This clause has not been used because the process of the constitutional reforms has been very easy until 2000 in an atmosphere of weak state power.

The Mexican Constitution specifically qualifies as concurrent powers those powers that, in certain exclusive and limited areas, Congress can allocate by law, part to the central level and part to the state and even municipal levels. It is an obvious exception to the constitutional principle that allocation of powers can be made exclusively by the Constitution, which means by constitutional reform. Mexico has never recognized the principle that powers allocated to the central government but not exercised by Congress can, in the meantime, be used by the states.

Coincident powers are those shared by national and state legislatures, one such example being the power to tax. Reserved powers are powers left to the state by exclusion. There also exist powers specifically granted to the states and powers prohibited to one or both levels of government.

The Constitution provides the protection of the system of allocation of powers by the classical means. Structurally, the Senate is a chamber representing and defending the states within Federal Congress. Furthermore, the reform of the Constitution requires not only a three-quarters majority in Congress but also the favorable vote of the majority of state legislatures.

IV. CONSTITUTIONAL PROTECTION OF FEDERALISM

The Mexican Constitution contains a very complete system of control of constitutionality: on human rights, on the respect for the allocation of powers among central, state, and local authorities, and on electoral rules and practices.

Regarding the allocation of powers:

The Juicio de Amparo is a writ that provides that any person who suffers from a law, judicial sentence, administrative act, or any conduct from an officer in which human rights are violated or the federal or state law is unduly issued or applied because it invades the competence which the Constitution grants to state or federal, can demand before federal judges or federal courts (in case of sentences) and obtain protection (Amparo). If the violation can be proved, the amparo is granted. The resolution of the federal judges and courts can be revised in those cases by the Supreme Court of Justice. If the amparo is finally favorable, the sentence or acts are declared void. In the case of laws, the individual is excluded from its application, but the law remains in force.

Any power can challenge another power for "invasion of competence," constitutional controversies of this sort being reserved to the Supreme Court of Justice. These controversies can originate between: federal powers with a state power or Federal District authorities; federal powers and a municipality; a federal power and another federal power; a state power and another state power; a state power and Federal District authorities; a Federal District authority and a municipality; two municipalities of the same state; one State and one of its municipalities; one state and municipalities of another state; and a Federal District authority and one municipality.

The power affected can initiate the procedures. In the case of administrative acts, if they "invade" a zone of competences, they are declared void. In the case of law, if the unconstitutionality is approved by the vote of eight of the eleven superior judges, the law in question is repealed.

The Supreme Court of Justice resolves the conflicts of jurisdiction between courts; federal and state; federal and Federal District; one state and another; one state and Federal District. It also resolves conflicts within Federal Courts.

V. FEDERAL DISTRICT

The Federal District has been considered in the three federal Constitutions of Mexico, each of which recognized the philosophy of the District's territorial independence of federal power from any other power. The American experiences in this matter and the way the District of Columbia was shaped were well-known. It was clear that grave problems could be avoided if the territorial freedom of the federal powers were granted.

The Federal District in Mexico was settled in Mexico City, the proud capital of the Aztecs and the core of New Spain. The city, at the time of the first Mexican Constitution, had been the center of two great civilizations, the native and the European, and was five hundred years old.

Mexico City is today one of the biggest human concentrations in the world. It is the financial, political, cultural, social, and religious center of Mexico and has been so for centuries; history and tradition have given Mexico City an original dimension unlike other federal capitals such as Brasilia (moved from Rio de Janeiro), Ottawa, Washington, or Canberra.

The first years of the Constitution of 1824 confirmed as wise the decision to exclude any other power from the Federal District. This was in view of the clash between the new national powers and those of the neighboring state that claimed the new capital as part of its territory and reluctantly gave way to the new political organization.

Since 1824, the lawmaking power in the Federal District was the Congress, and the executive was granted to the President. Both powers acted as federal as well as local authorities for the Federal District. The legislation for Federal District was carefully elaborated as different from the federal one. The "reserved" powers were thus granted to Congress and the President; the judiciary was appointed by those two. The local administration was vested

into a "Governor" or "Chief of Government" appointed by the President as his delegate. At first there were municipalities, but later they were substituted by "delegaciones" and the "mayors" appointed by the Federal District local chief or governor.

As a consequence of the astonishing growth of Mexico City, there was a surge of political activism. As part of this political activist movement, the Federal District claimed the right of electing local authorities, which the text of the Constitution denied. The activists highlighted the particular knowledge, time, and specialization needed to handle the challenges presented by the continuously growing metropolitan area — the multiplication of services, the emergence of a complex urban culture and related subcultures, the complexity of new problems arising from growth, and the necessary coordination with the authorities of neighboring states invaded by the ever-expanding metropolitan area. On the other hand, the administration was present in the everyday life of Federal District, and citizens resented being ruled by authorities coming from elsewhere — even if they were the federal officials. A series of constitutional amendments created a local Assembly and later on, a local government issued from local elections.

Today constitutional regulation of the Federal District is as follows. The frame of the political structure — the proper Constitution of the Federal District — are given in the Constitution of the United Mexican States. The details come from a "statute" of Congress that has the quality of an organic law. The lawmaking process is largely vested in one local Assembly, with reserved powers in Congress. The powers of the local Assembly are almost identical of those of the states.

The executive power is vested in a "Chief of Government," according to the presidential philosophy, independent of the Assembly but with powers of initiative and veto. The "delegaciones" in which the city is divided are politically independent of the "chief" but coordinated in administrative matters. The Assembly, the Chief of Government, and the chiefs of each delegation are elected directly, as are the rest of the Mexican representatives and executives.

VI. THE POLITICAL CHANGES

The best years of the President Party system were from 1940 to 1970 — three decades of continuous economic growth (almost six percent yearly average). The "unwritten rules" were essential to its performance. The constitutional principle of no reelection after

each six-year term of the Presidency was strictly respected. Each President assumed all the powers concerning the chieftdom of the Party which became omnipotent winning local, state, and local elections. This was the equivalent of complete centralization. Each President appointed the "candidate" headed to win the next election. The incumbent would retire and the new assumed all the constitutional and "metaconstitutional" powers. They were enormous. It was the President's privilege to appoint candidates to governorships and to seats in both chambers of the federal Congress. Their electoral victory was certain.

The Party created a formidable national machinery and controlled all the elections, national, state and local. It also promoted, created, and assimilated peasant workers and professional organizations. The national structure was organized along those lines. It also maintained a revolutionary ideology as a means of indoctrination even if the government was very pragmatic. The Party within was a forum of negotiation, arbitration, and allocation of power quotas.

The Party opened its ranks to the growing middle class. The "no reelection" rule — applied also to governors and, in a limited way, to representatives and senators — permitted a dynamic renovation of the political class and constant relations with all social strata. The system was based mostly in legitimacy and openness rather than coercion, which was used in a limited way. The killing of students in Tlatelolco before the 1968 Olympic Games horrified the country and tragically excluded the authoritarian solutions.

Elections were held regularly and electoral campaigns helped to receive demands, negotiate them, and revive contact with all social strata. Most of the popular leaders were co-opted into the Party.

In 1939, the main opposition party, the National Action Party (PAN), was founded and persistently fought for clean elections and democratic rules. From then on, the legitimacy of the system as a whole was never discussed, even if some of its practices were condemned.

PRI was proclaimed to be "revolutionary." It elaborated a nationalist and welfare state ideology. But it was also very pragmatic in this matter and proposed the programs that circumstances required. PRI proclaimed social justice, but it was discretely anti-communist. Even if the political dialogue was sometimes very strong against the greed and abuses of capitalism, PRI

avored private enterprise. The favorable continuous economic growth and the attention given to social programs account for different grades of a widespread acceptance.

The elections were controlled by government institutions with the increased participation of opposition parties.

The growth of population and the exhaustion of the economic model caused a series of economic crises that frustrated and upset particularly old and new urban areas. The opposition parties, particularly PAN, took advantage of the situation.

A series of political reforms ensued, first in 1963 and 1972, and then in 1977, 1983, 1990, 1993, and 1996. The continuity of the reforms is remarkable: some were made when the inevitability of more political demands were foreseen; more reforms were later agreed upon as soon as opposition parties gained force. The reforms permitted a political transition to a democratic system. They were several: electoral system combining majority with proportional representation; opening Congress to opposition parties; empowering Congress; more judicial limits to executive and legislative authorities; control of elections by an independent organization with representation of all political parties and representatives of the civil society; creation of an electoral jurisdiction; governmental finance of political parties and regulation of its practices; new status for the Federal District; and powers to the Supreme Court of Justice to resolve conflicts between executive and legislative, federal and state powers and Federal District authorities.

The quantum of representatives and senators of opposition parties grew. In 1989 the first opposition state governor was elected, and in 2000, the constitutional system allowed the cleanest and most uncontested election ever in Mexico. The opposition party PAN won the Presidency; the PRI remained the principal political force in the Chamber of Representatives (but not a majority) and retained the majority in the Senate; the organizations of the left, grouped in PRD (Party of the Democratic Revolution), shaped upon a schism from the left wing of PRI (which later melted the leftist groups.) PDR emerged as a third political force and obtained an overwhelming victory in Mexico City's Assembly and government.

The intermediate elections for congressmen and Federal District deputies to the local Assembly in 2003 maintained this composition of political forces stable except for an unprecedented victory of PRD in Mexico City. In this context, the position of the states has been changed. Mexico has thirty-one states plus the Federal Dis-

trict. Today, eleven state governments and the Federal District's government are PRD, PAN, or "independent coalitions" with minor parties. PRI preserves twenty-one state governments. It is now common to have alternate governments in the states; in two cases, PRI "regained" the governorship in the next election.

The following results, after more than a decade, can be observed. In almost all the states the political competition is well-received and its performance has been satisfactory, without any interruption in economic or social life. The profile of local candidates is definitely aimed toward people with residence, and political standing on the state and elections are fought and decided on local issues. In a few states there is a clear tendency to form groups and even family feuds. The three main political parties are against those practices. In a few states the tendency towards one dominant party within is clear, but in general, the next electoral result is difficult to foresee and competition seems to be working. It is common that the governor has a strong opposition in the local Congress because his party is not in the majority. That has provoked budget deadlocks in three states. In one state, two successive governors have been impeached. One of them was forced to resign. The rest has been working satisfactorily. In two states the elections have been contested; there are still electoral vices and reluctance to accept the victory of rivals. The Federal District's Chief of Government is in permanent confrontation with the President, and the Assembly with the Federal Congress.

VII. NATIONAL CONFERENCE OF GOVERNORS

At the beginning of the new era of a democratic elected national government in December 2000, Mexico suffered natural unbalances, which emerged from a change of the political system and the search for a new equilibrium of forces.

The first trend was a rearrangement of the political parties.

The governors affiliated with PRI and PRD organized exclusive meetings of comrade members to discuss matters of common interest, sometimes "inviting" those "interested neighbors" from different affiliations. At the beginning the PAN governors were absent. Being that their party was in national command, they expressed serious reservations that the grouping of governors could hide an underground political movement against the federal government.

On July 13, 2002, the Declaration of Cancún was issued by the governors of PRI-PRD, forming the National Conference of Gover-

nors (CONAGO) as "a free and open arena to analyze the problems of the states in order to find common solutions, with view to integrate them in the national government's public policies, always in coordination with federal officers." The governors affiliated with PAN did not assist. Later, when the idea of cooperative federalism was matured and assurances were given that there were not political, but institutional purposes, PAN governors finally decided to join.

CONAGO was established with the thirty-one governors and the Chief of the Federal District as an informal group due to the prohibition contained in the Constitution of the states to create agreements between them. Thus, there is not any "statute act" or any other constitutional document — just the verbal manifestation of will and the commitment before the nation to work together. All agreements should be accepted by unanimity, free from party positions and without any pressure from the majority upon the minority.

To date, fifteen meetings have been held, the purpose being to continue holding them in each one of the state capitals by rotation. The host governor acts as the "moderator" of the meeting. The governors do not give press interviews, but following the meetings, a short and concise general statement is released, exclusively containing the agreements obtained by unanimity.

As soon as the meetings proved successful, it was necessary to establish groups to work on the different subjects agreed upon, the preparation of the subsequent meetings, and to elaborate and preserve documents. The groups were ordered into a General Secretariat. No formal rules exist to regulate organization, structure, or procedures. The groups are working on the following subjects: migration; rural problems; poverty eradication; education; cooperation in case of natural disasters; tax and finance; budget, income, and expenses; surveyance of federal tax participations; infrastructure; federal and state jurisdictions in official certifications; health; reform of the state; public security; time allocation in radio and television; municipal problems; and social groups and media. The subjects imply a full revision of state activity and relations with the federal government.

The groups are coordinated by one of the state representatives and include the states interested in participating. A series of proposals of action, legal adjustments on the state and federal levels, and possible agreements are emerging.

To date, the main results of CONAGO have been as follows. First, the establishment of the Conference itself, the successful fifteen meeting series, and the National Treasury Convention can prove that CONAGO has been well-conceived and well-directed. It has been accepted by the federal government and has a high standing in the public opinion. The acceptance of CONAGO by the federal government as a forum in the "Declaration of Cuatro Ciénegas," with the signature of the President, gives the Conference moral value and clearly expresses the commitment of both levels of government to enhance the principles of the federal state, arrange the financial problems, and revise the "concurrent powers" in order to achieve an effective decentralization and any other constitutional provision necessary to establish new state responsibilities and equilibria between the two orders. (The signature of the pact in *Cuatro Ciénegas* was symbolic: All parties and all executives assisted in that village in which originated the revolutionary movement that culminated in the Constitution of 1917.) Finally, the first National Treasury Convention was called to start the complete revision of the Mexican tax system. The result was satisfactory, though no concrete results are yet in view. Being the immediate problem on the agenda, we have reserved a special treatment for the subject.

VIII. TAX MATTERS

Like many federal constitutions, that of Mexico establishes concurrent tax powers. The distribution of taxes is as follows.

The federal government has the exclusive right to tax foreign trade, exploitation of oil and minerals, financial and insurance institutions, public federal services, electricity, tobacco, gasoline, matches, "aguamiel" (alcoholic beverage from cactus plant), forest exploitation and production, and consumption of beer. The Federation by constitutional prevention should share these special taxes in the amount determined by federal law with the states.

There are taxes specifically proper of the municipalities: income issuing from its own patrimony, real estate property, local public services, and direct federal "participations" granted to the municipalities. Thus, the rest of the taxation is an area in which the Federation and states have equal power to make laws.

This situation has caused, since the beginning, inequality of taxes and revenues and "competition" between Federation and states to tax and collect, thus "squeezing" the taxpayer. The problems had to be solved by agreements between Federation and

states. After three National Tax Conventions (in 1925, 1932, and 1947), a National Tax Coordination System regulated by federal law was created. The National Tax Conventions were dominated by the federal government, and the system has been constantly contested by the states, not less because the two main sources of income: "revenue" and "value added" have been considered and recognized as "federal." The states' primary source of income is employee roll tax, hotel accommodation revenues, tenancy, and use of motor vehicles. Real estate tax is directly granted by the Constitution to the municipalities – as well as the free use of it.

The Federation assigns to the states and municipalities an average of eighty-five percent of their total income. Those monies form the so-called General Participations Fund. Special participations are granted for specific purposes, according to certain percentages of distribution adapted to the size, population, and degree of development of each state.

In the last few years, an effort has been made to balance the distribution of the total revenue. The amount of federal money is increasing, but the local sources of revenue continue to be very limited and represent a very low percentage of each state budget.

The special participations have been benefiting from a constant increase, but they are specifically allocated to concrete purposes according the decisions of the federal powers without intervention of the states. The federal criteria is that they form part of the national programs of development. But, the state criteria for the use of resources are frequently different from the federal power's standards. This situation occurs in a deficient national tax system.

The total tax income in Mexico represents 17.5% of the GDP. In Brazil it is 21.37%; Germany 26.96%; USA 28.96%; Switzerland 32.08%; Belgium 33.42%; Austria 33.47%; Australia 37.30%; and Canada 39.07%. All of the countries mentioned are federal states.

Part of the explanation for this obvious retard is Mexico's excessive dependence on the taxes paid by the state enterprise *Petróleos Mexicanos* (PEMEX) on its oil revenue. In the last twenty five years, PEMEX paid in taxes an average 24% of the total federal tax revenue. The use of these resources has resulted in an inefficient system, aggravated by the political temptation of avoiding the popularity cost of raising and collecting taxes. In the new atmosphere of political competition, the problem has become more serious.

It is agreed that the design of the tax system is very deficient. Aside from that fact, there are problems of tax evasion, a limited base of taxpayers, ineffective administrative practices, and the spectacular growth of an informal economy since the last decade of the past century as a reaction to unemployment due to economic crisis and insufficient growth.

CONAGO is discussing, with the federal government:

- The amount of resources granted to the states;
- The possible "redistribution" of certain charges;
- The freedom of administration of federal money by the states;
- The necessary participation of the states in a full revision of the national tax system; and
- A national system of "transparency" in the collection of taxes and use of public money.

IX. A GENERAL VIEW OF DEMOCRATIC TRANSITION IN MEXICO

Today's federalism in Mexico is part of a general transition and consolidation of a new democracy.

After almost forty years of absolute domination, the President-Party system showed signs of declining authority at the end of the 1960s. This erosion resulted from the remarkable growth of an educated middle class whose economic and social aims could no longer be satisfied. The system of a closed economy with its emphasis on the internal market and the creation of an industrial structure based on protectionism resulted in the inability to compete in a new global economy. The consequences were low growth rates, inflation, and unemployment. The excessive confidence in oil income, the absence of a tax reform, and the mismanagement of the economy provoked a series of crises: devaluations, increase of prices of oil products and electricity, high rates of interest, and so on. The necessary measures to revive the economy were very painful for the middle class. The opposition was thus strengthened.

Various external factors led to strong pressures to liberalize not only the economy but also the political system — the position of Mexico in the world economy (the eleventh economy in gross domestic product); its geographic situation (with 2000 kilometers of border with the United States); the interest of foreign countries in taking commercial advantage of Mexico's proximity to the largest market in the world by establishing plants in Mexican territory with lower production costs; and the prospective trade agreement

between the United States and Mexico. Mexico's last presidents were sensitive to these combined external pressures and became conscious of the imminence of political reforms.

Mexico has a very poor democratic tradition. Four years following the War of Independence from Spain; ten years following the restoration of the republic, triumphant in wars against the conservatives, the Catholic Church and the French Intervention; and only one year following the victory of the Revolution of 1910 account for the only democracy in almost two centuries of independent life. On the contrary, the authoritarian tradition is very strong, with two centuries of Aztecs, three centuries of Spanish absolutism, and one century in which the power was obtained with rifles, not with votes, followed by the President-Party system which ruled seventy years.

The longevity of the system can be explained by its pragmatism, its openness to different social classes and to younger generations, and the continuous search for legitimacy with rare use of coercion. The embracement of different groups and levels of society was summarized as "the revolutionary family." Inside the party, the process of negotiation and assignment of power quotas was continuous and no information was revealed outside.

The changes began in different levels of society. They did not have a common pattern and did not reflect a specific program: the "intelligentia," the press, a Catholic Church now defending the poor and not the privileged classes, environmental defendants, human rights activists, independent labor and peasant organizations — all achieved recognition and not simple tolerance. Their demands were taken seriously, especially those presented by Indian groups that were supported by the majority of the Mexican society.

Politically, this non-conformism was revealed in municipal elections which were more and more difficult for the government to control. By 1992, 44% of the population of municipalities and 30 of the 150 of the biggest cities' mayors were from the then-opposition parties. It was an obvious grassroots movement. A new generation of politicians, almost all of them successful businessman and professionals who were new members of PAN in different states, developed an activism which explains today's governorship map.

All this was made possible by the constitutional reforms which were previously discussed.

The actual Mexican urban society is a new phenomenon. Until recently, the country was predominantly rural, and the towns were dominated by local elites. The new social shape was the result of the social and political changes which occurred in the first decades of the century. The mestizo "mix blooded" is today's Mexican; he was the big winner of the Revolution of 1910. But society is divided between rich and poor, with a tremendous difference in the distribution of income. Those in the upper income level — about 20% of the population — control almost 60% of the total income in Mexico. The lower income level — also 20% of the population — earn only 5% of the income. Forty percent of the Mexican population — approximately forty million people — earn less than what is identified by economists as the poverty line, a level of income below which one cannot afford to purchase resources necessary to live.

The Indians are still a society of ten million people living in poverty; they are not integrated into mainstream society, but live within traditional cultures.

These imbalances favor populist attitudes that could be dangerous. The menace of a plebiscitarian government is real. The appeal to the pressure of the masses on the institutions is a possibility.

The big winners in the process have been the political parties that monopolize elections and have the exclusive claim for remedies against unconstitutional electoral laws. By constitutional provision, they are provided by public funds.

But, if the political parties are financed with public resources, questions arise regarding the use of that money, as well as about illegal contributions. The constant criticism by each party of the others' practices, an unwillingness to compromise or to seek long-term solutions, and above all, the lack of democracy within the respective party organizations has created an adverse public opinion.

Important reforms are required: opening the national government energy utilities to private and foreign investment, revision of the deficient tax system, and the liberalization of the labor market by making the labor laws more flexible. At the moment there is an impasse because political parties in Congress have been unable to discuss seriously with long term views any of the necessary reforms.

There is also an institutional issue. The Chamber of Representatives has 500 seats: 300 filled according to the principle of ma-

jority, and 200 filled according to proportional representation. Any of the three parties has the majority.

Mexico has not two, but three political parties. Ideologically, the parties are located between the center-right and the moderate left. It is fortunate that there are not extremes. With the actual composition of Congress in which any of the parties constitutes a majority, the President requires the consent of two of the three political parties on main issues and the necessary majority for constitutional reforms. Consensus is proving to be very difficult.

With three strong political parties, we can very easily foresee a candidate winning the presidency with as little as 34% of the national vote, which would give him questionable legitimacy. (The Mexican Constitution does not provide for a second round of voting for the President.)

Due to its new responsibilities, the Supreme Court of Justice is resolving, according to the Constitution, legal matters that involve political conflicts. It has been doing remarkable work, but sometimes has been a target of irresponsible attacks from political parties or members of Congress not favored by a given decision. The same comment is true of the Electoral Court. The Federal Judicial Power has been acting with full autonomy. The Supreme Court of Justice has been a key factor in today's political equilibrium.

Many Mexicans have a cautious attitude regarding the state courts and even a cynical approach to justice. Corruption and political influence in some of the state courts is unfortunately still present. One cannot achieve democracy without a strong social conscience and respect for the rule of law. Thus, the institutional framework and the rule of law present weaknesses that must be overcome if real democracy is to be consolidated.

On the positive side, as different opinion polls illustrate, the overwhelming majority of today's Mexicans believe that democracy is the best system of government and that it is the only way for the country to achieve social and economic development. The civil society is moving towards different forms of expression in social and cultural matters.

It is in this arena in which the new federalism is performing. The creative forces of the provinces seem to emerge and demand a fair allocation of powers. The results depend on the consolidation of democracy; at the same time, the new federalist movement could be one of the most important elements to achieve it.